

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

General Permit No. 198000048
Name of Permittee: General Public
Effective Date: July 24, 2000
Expiration Date: December 31, 2004

**DEPARTMENT OF THE ARMY
GENERAL (REGIONAL) PERMIT**

A general permit to perform work in or affecting navigable waters of the United States and waters of the United States, upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403), and Section 404 of the Clean Water Act (33 U.S.C. 1344), is hereby modified and renewed by authority of the Secretary of the Army by

District Engineer
U.S. Army Engineer District, Wilmington
Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

TO AUTHORIZE EMERGENCY CONSTRUCTION OF PRIMARY DUNES AND THE PLACEMENT OF SANDBAGS FILLED BY EXCAVATION FROM AREAS WATERWARD OF THE MEAN HIGH WATER (MHW) ELEVATION CONTOUR ON ATLANTIC OCEAN SHORELINES IN BRUNSWICK, CARTERET, CURRITUCK, DARE, HYDE, NEW HANOVER, ONSLOW AND PENDER COUNTIES, NORTH CAROLINA.

1. Special Conditions

a. Work authorized by this general permit is limited to the reconstruction of primary dunes and the placement of sandbags determined to be absolutely necessary to rectify an emergency situation as defined by North Carolina Coastal Resources Commission Regulations. The decision whether an emergency exists will be made by a Coastal Area Management Act (CAMA) Regional Consultant in coordination with a Corps of Engineers, Wilmington District, Regulatory Division Project Manager. All work must comply with the North Carolina Guidelines for Areas of Environmental Concern in Ocean Hazard Areas.

b. Work will not necessarily restore property to its condition prior to the emergency. The District Engineer and/or the North Carolina Division of Coastal Management may limit the scope of work to that necessary to stabilize the beach to prevent property damage, injury or loss of life. Neither the U.S. Government nor the State of North Carolina will be held liable should the authorized work not fulfill its intended purpose.

c. Before initiating any work, the permittee must contact the CAMA Regional Consultant and the Corps of Engineer Project Manager. Permittees may not avail themselves of the authority provided by this general permit until satisfying North Carolina General Statutes 113-229, 143-215.3(a)(1), 143-215.3(c) and 113A-118. Only after receiving approval for the work pursuant to CAMA and notice from the District Engineer, Wilmington District, may the permittee proceed with the work. All activities will be performed in strict accordance with the Special and General Conditions of this general permit, any specific instructions from the State or the District Engineer and any other State or Federal requirements.

d. Vegetated wetlands will not be excavated or filled.

e. Primary dunes will be reconstructed at or landward of existing or recently eroded primary dunes and/or adjacent primary dunes.

f. This general permit does not authorize any activity that may affect threatened or endangered species or their critical habitat as identified by the Endangered Species Act (16 U.S.C. 1531), as amended. For work to be performed between the dates of April 1 through November 15 of any year, the District Engineer will provide a notice to proceed only upon his determination that the authorized work will not affect threatened or endangered species or their critical habitat. In a notice to proceed, the District Engineer may require a permittee to comply with specific conditions to ensure that authorized work avoids impacts to threatened or endangered species or their critical habitat.

g. All work will comply with the applicable Clean Water Act Section 401 Water Quality Certification for this general permit issued by the North Carolina Division of Water Quality (NCDWQ). Proposed fill or substantial modification of waters or wetlands for the general certification requires written concurrence from NCDWQ.

h. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. General Conditions

a. All activities authorized by this general permit that involve the discharge of dredged or fill material in waters of the United States will be consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pre-treatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1344) and applicable State and local law. If the proposed activity involves the discharge of dredged or fill material in waters of the United States, prior to the commencement of any work, the applicant will satisfy the NCDWQ regarding the need for a Water Quality Certification pursuant to Section 401 of the Clean Water Act.

b. There will be no unreasonable interference with navigation or the right of the public to riparian access by the existence or use of activities authorized by this general permit.

c. A permittee, upon receipt of written notice from the Wilmington District Engineer of failure to comply with the terms or conditions of this general permit, will, within 60 days, without expense to the U.S. Government, and in such manner as the Wilmington District Engineer may direct, affect compliance with the terms and conditions or return the worksite to a pre-work condition.

d. The permittee must make every reasonable effort to perform the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife and natural environmental values.

e. The permittee must perform the work authorized herein in a manner so as to minimize any degradation of water quality. The activity will be conducted in such a manner as to prevent a significant increase in turbidity outside the area of construction or construction-related discharge. Increases such that the turbidity in the waterbody is 25 NTU's or less in all saltwater classes are not considered significant.

f. The permittee will permit the Wilmington District Engineer or his representative to make periodic inspections at any time deemed necessary in order to assure that the activity is being performed or maintained in strict accordance with the Special and General Conditions of this permit.

g. This general permit does not convey any rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property or invasion of rights or any infringement of Federal, State or local laws or regulations, nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein. These may include, but are not necessarily limited to, a Dredge and/or Fill Permit (N.C.G.S. 113-229), a Coastal Area Management Act (CAMA) Permit (N.C.G.S. 113A-118), an Easement to Fill (N.C.G.S. 146-12) and a Water Quality Certification pursuant to Section 401 of the Clean Water Act.

h. Authorization provided by this general permit may be either modified, suspended or revoked in whole or in part if the Wilmington District Engineer, acting on behalf of the Secretary of the Army, determines that such action would be in the best public interest. Unless subject to modification, suspension or revocation, the term of this general permit shall be five years. Any modification, suspension or revocation of this authorization will not be the basis for any claim for damages against the U.S. Government.

i. This general permit does not authorize the interference with any existing or proposed Federal project and the permittee will not be entitled to compensation for damages or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

j. This general permit will not be applicable to proposed construction when the Wilmington District Engineer determines that the proposed activity would significantly affect the quality of the human environment and determines that an Environmental Impact Statement (EIS) must be prepared.

k. This general permit will not be applicable to proposed construction when the Wilmington District Engineer determines, after any necessary investigations, that the proposed activity would adversely affect areas which possess historic, cultural, scenic, conservation or recreational values. Application of this exemption applies to:

(1) Historic, cultural or archeological sites listed in or eligible for inclusion in the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 and its codified regulations, the National Historic Preservation Amendment Acts of 1980 and 1992, the Abandoned Shipwreck Act of 1987 and the Native American Graves Protection and Repatriation Act.

(2) Sites included in or determined eligible for listing in the National Registry of Natural Landmarks.

(3) Endangered or threatened species or habitat of such species as determined by the Secretaries of Interior or Commerce and concerned in accordance with the Endangered Species Act (16 U.S.C. 1531).

l. Permittees are advised that development activities in or near a floodway may be subject to the National Flood Insurance Program which prohibits any development, including fill within a floodway that results in any increase in base flood elevations.

m. At his discretion, the Wilmington District Engineer may determine that this general permit will not be applicable to a specific construction proposal. In such case, the procedure for processing an individual permit in accordance with 33 CFR 325 will be available.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

James W. DeLony
Colonel, Corps of Engineers
District Engineer